

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on December 17, 2003, made Final. Claims 1-35 are presented for examination. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons et al. (US 6,332,198) hereinafter Simons, in view of Medard (US 6,047,331) hereinafter Medard.

Applicant has carefully noted and studied the rejections, references and the Examiner's comments, and herein provides arguments to more particularly point the subject matter regarded as inventive, distinguishing unarguably over the reference of Simons and Medard.

In "Response A" last filed by applicant claims 1, 12 and 24 were amended to positively recite that the APS procedure is completed within a 50 millisecond time frame as required by automated-protection-switching protocol. APS comprises a protocol and software that enables a plurality, typically an aggregated group, of primary lines egressing from a router to be individually backed-up by a single backup line dedicated for the purpose.

Applicant argued that Simons fails to specifically disclose APS software implemented in the computer system 10 for redundancy schemes. Simons uses a main processor 12 including main memory.40 (Fig. 5) which serves as the master processor for the system. The art of Simon teaches that all application-dependent data resides in memory 40 and not in kernal software in individual APS modules (col. 19, lines 32-37). Applicant believes that because information and communication needed to facilitate APS is not stored locally in Simons, as in applicant's invention, the 50 millisecond time frame could not be consistently accomplished. In applicant's invention all pertinent information is transmitted between APS modules allowing the information exchange required for APS to occur much faster. Simon suffers from network data flow interruption because true APS is not accomplished.

col 42
line 50-52
ready to use
as claimed in
primary prior art

The Examiner counters applicant's claim amendments and arguments in the current Office Action by presenting an obviousness rejection adding the art of Medard to Simons. The Examiner admits Simons does not disclose that an APS protocol performs a switchover within a 50-millisecond time window. The Examiner states that Medard teaches a method and apparatus for planning and implementing automatic protection switching in networks. Further, the Examiner continues, Medard teaches a bi-directional self-healing ring and unidirectional rings. The self-healing ring architecture typically requires about 10 ms to detect and 50 ms to complete a switch (col. 2, line 53-col. 3, line 2).

Applicant points out that the portion of Medard, referenced by the Examiner, is in the "Background" portion of the specification. Medard is disclosing standard APS protocol timing just as applicant did in the specification of applicant's invention. Applicant argues that a 50-millisecond switchover simply is not possible in the art of Simons even when Standard APS protocol is known in the art.

Applicant believes that because information and communication needed to facilitate APS is not stored locally in Simons, as in applicant's invention, the 50 millisecond time frame could not be consistently accomplished. In applicant's invention all pertinent information is transmitted between APS modules making the information exchange required for APS occur faster. Applicant argues that the art of Simons should be withdrawn because it is not an analogous art of APS systems. Applicant believes that the art of Medard contributes absolutely nothing to the Examiner's rejection.

Applicant points out to the Examiner that in order to support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious **in light of the teachings of the reference**. Both the suggestion to make the claimed combination and the

reasonable expectation of success must be founded in the prior art and not in applicant's disclosure.

Applicant argues that the concept of providing an APS interface relocation from a primary interface to a backup interface as claimed, within a 50 millisecond time window required by APS protocol, is only founded in applicant's disclosure and not in Simons or Medard. }

Applicant believes that claims 1, 12 and 24, as amended and argued above, are patentable over the art of Simon and Medard. Claims 2-11, 13-23, and 25-35 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims left standing are clearly shown to be patentable over the prior art, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,

Sundara Murugan

by 

Donald R. Boys
Reg. No. 35,074

Donald R. Boys
Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004
(831) 726-1457